SEP 24 1963

IN THE

Supreme Court of the United States

October Term, 1962

Nos. 379 and 380

PAN-AMERICAN LIFE INSURANCE COMPANY,
Petitioner,

vs.

MARIE LORIDO,
Respondent.

REPLY BRIEF OF PETITIONER

JAMES A. DIXON
9th Floor, Dade Federal Bldg.
101 East Flagler Street
Miami 32, Florida
Attorney for Petitioner

TABLE OF AUTHORITIES

	Page
Market Street Railway Company v. Railroad Commission, 324 U.S. 548	2
Florida Appellate Rule, 2.1(5)(a)	3
2.1(5)(b)	3
2.1(5)(d)	2

IN THE

Supreme Court of the United States

October Term, 1962

Nos. 379 AND 380

PAN-AMERICAN LIFE INSURANCE COMPANY,
Petitioner,

vs

MARIE LORIDO,
Respondent.

REPLY BRIEF OF PETITIONER

ARGUMENT

The Respondent's Brief in opposition to the Petition for Certiorari attempts to make the point that the Petitioner herein did not exhaust its State Court remedies because it did not move for a re-hearing in the Supreme Court of Florida.

This is a strange contention in view of the decision of this Court in **Market Street Railway Company v. Railroad Commission of California**, 324 U.S. 548, holding that the decision of the Appellate Court is, as to the unsuccessful party litigant, final as soon as issued, even though the Court has power to open it up by granting a Petition for re-hearing.

The Respondent's Brief, in ground 3, seems to suggest that the District Court of Appeal of Florida, Third District, lacked jurisdiction because exclusive jurisdiction by appeal was vested in the Supreme Court of Florida. It also suggests that the Supreme Court of Florida lacked jurisdiction because the case came before it on Petition for Certiorari to the intermediate Appellate Court rather than on direct appeal from the trial Court.

Such an argument is specious, in that it ignores the admirable flexibility of the Florida Appellate Rules, which permit, and encourage the exercise of appellate jurisdiction to promote the efficient administration of justice, not limited by technicalities of appellate procedure.

Florida Appellate Rule 2.1(5)(d) reads as follows:

> "(d) When the jurisdiction of an Appellate Court has been improvidently invoked, that Court may of its own motion or on motion of either party to the cause enter an order transferring it to the Court having jurisdiction. Five days' notice of such motion or proposed action shall be given to the other parties. Notices of appeal and other papers filed prior to the transfer shall have the same force and effect as if filed in the proper Court and as of the time when filed in the Court from which the transfer was made."

Under this rule, the District Court of Appeal could simply have transferred the case to the Supreme Court of Florida, if that was the only Court of appropriate jurisdiction.

Furthermore, Rule 2.1(5)(a), which is relied on by the Respondent, merely gives the appealing party the option to by-pass the intermediate Court of Appeal in seeking appellate review of the cases falling within the scope of this section of the rule.

If the Supreme Court of Florida has the sole and exclusive jurisdiction for appellate review of the classes of cases mentioned in paragraph (5)(a), as the Respondent seems to argue, then Rule 2.1(5)(b) becomes completely meaningless, since the District Court of Appeal would lack any jurisdiction ever to decide cases of these classes.

None of the arguments advanced by the Respondent in opposition to the grant of certiorari by this Court have validity, and the Petition for Certiorari should be granted.

Respectfully submitted,

DIXON, DeJARNETTE, BRADFORD, WILLIAMS, McKAY & KIMBRELL

By: JAMES A. DIXON

Attorneys for Petitioner

I HEREBY CERTIFY that a true copy of the foregoing Reply Brief of Petitioner was mailed to MR. RAY A. MUNSON, Attorney for Respondent, Ingraham Building, Miami, Florida, this 25 day of September, 1963.